

## THE LEGISLATION OF LYCURGUS AND SOLON

### LYCURGUS

In order properly to appreciate the plan of Lycurgus, we must take a look at the political situation in Sparta at that period and study the constitution that existed when he came forward with his new proposal. Two kings, each having equal power, were at the head of the government; each jealous of the other, each endeavoring to build up a following of his own and thereby to limit the power of his associate. This jealousy had been handed down by the two first kings, Procles and Eurysthenes, to their respective descendants until the time of Lycurgus, with the result that during this long period Sparta was continually disturbed by factions. Each king sought to bribe the people by granting extraordinary liberties, and these concessions finally made the people insolent and rebellious. The state fluctuated back and forth between monarchy and democracy, passing rapidly from one extreme to the other. No fixed lines of demarcation has as yet been drawn between the rights of the people and the powers of royalty. Wealth accumulated in a few families. The rich citizens tyrannized over the poor and the despair of the latter expressed itself in rebellion.

Torn by internal discord, the feeble republic had either to become the prey of its warlike neighbors or split up into several small tyrannies. It was in this condition that Lycurgus found Sparta: with ill-defined limits to royal and popular powers, with an unequal distribution of property among its citizens, lacking in public spirit and unity and in a state of complete political exhaustion. These were the evils that most urgently claimed the attention of the legislator and which he had, therefore, chiefly to consider in framing his laws.

On the day that Lycurgus wished to promulgate his laws, he had thirty of the most prominent citizens, whom he had previously won over to his cause, appear in the marketplace. They were armed in order to instil fear in those who might oppose him. King Charilaus, frightened



by these moves, fled to the temple of Minerva, believing that the whole affair was directed against him. But his fears were allayed and he was even prevailed upon to give active support to Lycurgus' plan.

The first innovation concerned the government. In order to prevent the republic in future from wavering between royal tyranny and anarchical democracy, Lycurgus created a third power to counterbalance the other two. He established a *senate*. The senators, of whom there were twenty-eight, making thirty with the kings, were to side with the people if the kings abused their power. On the other hand, if the people were to become too powerful, the senators would side with the kings and protect them from the people. An excellent arrangement by means of which Sparta was permanently relieved of all the violent, internal commotions that had previously convulsed it. By this means each party was prevented from trampling on the other. Opposed by both senate and people, the kings were powerless to perpetrate anything; nor could the people arrogate the power if the senate and the kings joined forces against them.

But Lycurgus had overlooked a third contingency: that the senate itself might abuse its power. As an intermediary agent, the senate could easily join with either the kings or the people without imperiling the public peace, but the kings could not unite with the people against the senate without greatly endangering the safety of the state. The senate soon began to make use of its advantageous position in an extravagant manner. In this it succeeded all the more readily since the small number of senators made it easy for them to reach an agreement among themselves. Lycurgus' successor filled this gap by introducing the ephors who were to keep the power of the senate in check.

The second innovation made by Lycurgus was bolder and more dangerous. This was to divide the entire country into equal portions between the citizens and to abolish



forever the distinction between rich and poor. All of Laconia was divided into thirty thousand shares, the land around the city of Sparta itself into nine thousand, each sufficient to provide abundant support for a family. Sparta now became a beautiful and charming sight to behold, and Lycurgus delighted in the spectacle when he traveled through the country. "All Laconia," he exclaimed, "is like a field which brothers have shared with one another as brothers."

Lycurgus would also have liked to distribute movable property, but invincible obstacles prevented him from carrying out this measure. He therefore tried to achieve this end by a circuitous route and to cause what he had been unable to abolish by decree to disappear of its own accord.

He began by prohibiting the use of all gold and silver coins and introducing iron coins in their stead. At the same time he assigned a trifling value to a large and heavy lump of iron, so that considerable space was required to keep a small sum of money and a large number of horses to move it. In order that no one should be tempted to set store by this money because of the iron, he had the iron used for this purpose fired to red heat and cooled and hardened in vinegar which rendered it unfit for any other use.

Who now would be tempted to steal or to accept bribes or to accumulate riches when the small profit could neither be concealed or used?

Lycurgus was not content with depriving his fellow citizens of the *means* of luxury. He also removed from sight the *objects* that could have aroused their desire for it. No foreign merchant had any use for Sparta's iron coin and there was no other kind to offer him. Artists who worked to gratify luxurious tastes now disappeared from Laconia. No foreign ship appeared in Spartan ports. No adventurous traveler appeared to seek his fortune in that country. No merchant came to exploit the vanity and voluptuousness of the Spartans, for he could take away nothing but iron coin which was despised in every



other country. Luxury vanished because there was no one to keep it up.

Lycurgus worked in yet another way to counteract luxury. He ordered all citizens to eat together in a public place and to partake of the same prescribed fare. It was unlawful to cultivate effeminate habits at home and to have costly viands prepared by special cooks. Every month each citizen had to provide a certain quantity of foodstuffs for the public table and in return the state furnished him with the food he required. There were generally fifteen persons at a table and each person had to receive the unanimous vote of the others to be allowed to sit at the table. No one was allowed to absent himself without a valid excuse. This rule was so strictly enforced that even King Agis, one of the later kings, was refused by the ephors the privilege of dining alone with his wife after his return from a victorious campaign. Famous among Spartan dishes was the black soup. It was said in its praise that it was not difficult for the Spartans to be brave since to die was no greater misfortune than to eat their black soup. They seasoned their meals with mirth and fun, for Lycurgus was so fond of gayety that he erected an altar to the god of laughter in his own house.

By introducing the custom of common meals Lycurgus accomplished a great deal for his purpose. People no longer went in for expensive tableware since it could not be used at the public table. Excesses were prevented forever. This moderate and regulated living resulted in strong, healthy bodies, and healthy parents were able to beget robust children for the state. Eating together accustomed the citizens to living with one another and to looking upon themselves as members of the same political body. What is more, so uniform a mode of life inevitably served to produce a uniform attitude of mind.



Another law decreed that no house could have a roof not made with an axe and no door but one made only with a saw. No one dreamed of furnishing so crude a house with expensive furniture; every part of the house must be in harmony with the whole.

Lycurgus saw clearly that it was not enough to make laws for his fellow citizens; that he also had to create citizens for these laws. He had to secure perpetuity for his constitution in the minds of the Spartans; he also had to deaden their susceptibility to foreign impressions.

The most important part of his legislation was the education of children. This closed, as it were, the circle within which the Spartan republic was to revolve as a self-sufficient unit. Education was an important task of the state and the state was a continuous product of education.

His concern for future generations extended even to the fountainhead of procreation. The bodies of young females were hardened by exercise so that they would easily bear sound, robust offspring. They even went without clothes in order to become inured to all kinds of weather. The bridegroom had to abduct his bride and was permitted to visit her only at night and in secret. This prevented the man and wife from becoming too intimate with one another during the first years of their marriage and kept their love fresh and alive.

Jealousy was entirely banished from the marriage relationship. The lawgiver subordinated everything to his main object, even female modesty. He sacrificed matrimonial fidelity in order to procure healthy children for the state.

As soon as the child was born it became the property of the state. It no longer belonged to its father and mother. It was examined by the elders: if it was strong and well-formed it was put in the care of a nurse; if it was weak and misshapen it was thrown from a high cliff on Mount Taygetus.

The Spartan nurses, famous throughout Greece for their rigid upbringing of the children, were called into distant countries. As soon as a boy reached his seventh year, he



was taken from them and was then raised, fed and instructed with other children of the same age. Early in life he was taught to endure hardship and to acquire mastery of his body through physical exercise. When the boys grew to manhood, the noblest of them could hope to find friends among the older citizens with whom they established bonds of warm, enthusiastic affection. The old were present at the games, watched the rising genius and spurred the ambition of the young men with praise or censure. If a youth wanted a full meal, he had to steal the food, and if anyone was caught doing this, he might expect severe punishment and public disgrace. Lycurgus chose this method of teaching them to resort to cunning and intrigue at an early age. These qualities he considered as important for the warlike purpose for which he developed them as physical strength and courage. We have already pointed out how unscrupulous Lycurgus was about morality when it was a question of serving his political ends. However, we must remember that neither the profanation of marriage nor this legitimized theft could do as much political damage in Sparta as it would have in any other state. As the state took charge of the education of children, education was independent of the happiness or purity of the marriage. Since little value was attached to possession and almost all goods were public property, security of ownership was of no great importance. An attack on property—especially when directed by the state for a definite political end—was no crime in the eyes of the law.

The young Spartans were forbidden to adorn themselves except when going to battle or to meet some other danger. At such times they were permitted to adorn their hair, to ornament their garments and arms. Lycurgus used to say that hair made handsome people more handsome and ugly people hideous. It was undoubtedly a fine trick on the part of the Lawgiver to associate festivity and mirth with dangerous ordeals and thus to eliminate the element of dread. He went still further. In time of war he some-



what relaxed the severe discipline; the mode of living was a little more liberal and transgressions were punished less rigorously. Hence war became a sort of recreation for the Spartans and they anticipated it with delight like an occasion for merrymaking. At the approach of the enemy, Lycurgus ordered the Castorean hymn to be sung, and, accompanied by the music of flutes, the soldiers marched out in serried ranks to meet the danger, joyous and unafraid.

Lycurgus' legislation had the effect of subordinating attachment to private property to attachment to the national interest; relieved of personal cares, the Spartan lived exclusively for the state. He therefore considered it advisable to save his fellow citizens the trouble of attending to the ordinary business of life and to have it performed by foreigners so that their minds should not be distracted from the national interest by business worries or domestic pleasures. The labor in house and field was therefore done by slaves whose position in Sparta was on a par with that of cattle. They were called Helots because the first Spartan slaves were inhabitants of the Lacedemonian city of Helos whom the Spartans had conquered and taken prisoner. The name Helots was afterward given to all Spartan slaves who were taken in battle.

The treatment which these unhappy people endured in Sparta was inhuman. They were regarded as mere chattels to be used for political purposes as their owners pleased. In them humanity was degraded in a shocking fashion. In order to illustrate to the Spartan youths the evil effects of alcoholic liquor, these Helots were compelled to become drunk and were shown in public in this condition. They were made to sing scandalous songs and to dance grotesque dances. They were forbidden to perform the dances of the free citizens.

They were used for still more inhuman purposes. The state wished to put the courage of its boldest youths to



severe tests and to prepare them for war by bloody practices. For this purpose, at certain times of year, the Senate would send a number of young men into the country provided with nothing but a dagger and some food. They were ordered to conceal themselves by day, but at night they went out on the public roads and killed the Helots who fell into their hands. This was called *Cryptia* or ambush, but there is some doubt as to whether it was originated by Lycurgus. In any event, it is entirely in keeping with his system. As a result of successful wars, the number of Helots grew so considerable that they became a source of danger to the state. Driven to despair by this barbarous treatment, they incited rebellions. The Senate hit upon an inhuman expedient which it justified on the grounds of necessity. Proclaiming that it would grant them their liberty, the Senate assembled two thousand of the bravest Helots on a certain occasion during the Peloponnesian War, and, adorned with wreaths, they were conducted to the temples in solemn procession. Here they suddenly vanished and nobody ever knew what had become of them. This much is certain, and it became a common saying among the Greeks that Spartan slaves were the most miserable of all slaves and Spartan citizens the freest of all citizens.

Since all labor was performed by the Helots, the citizens passed their lives in idleness. The young men spent the time in warlike games and skills and the elders acted as spectators and judges on these occasions. It was considered disgraceful in Sparta for an old man to stay away from the place where the young were being trained. In this way, every Spartan became identified with the state; all his acts became *public* acts. Youth matured and old age declined under the eyes of the nation. The Spartan kept his eye constantly on Sparta and Sparta kept its eye on him. He witnessed everything that took place and his



own life was witnessed by all of his compatriots. The love of glory was continually stimulated, the national spirit continually fed. The idea of *country* and *patriotic interest* was implanted in the innermost life of every citizen. The public festivals, of which there were many in idle Sparta, afforded further opportunities for kindling the national enthusiasm. Warlike folksongs were sung which usually celebrated the glory of citizens who had died in battle for their country or inspired men to acts of bravery. At these festivals the citizens were arranged in three choruses according to age. The chorus of elders began by singing: "In past ages we were heroes." The men's chorus replied: "We are heroes now! Come who may to try us!" The third chorus of boys concluded: "Heroes we shall be; we shall obscure you by our deeds."

If we cast merely a superficial glance at Lycurgus' legislation, we indeed experience a pleasant surprise. Among all similar institutions of antiquity, this is undoubtedly the most perfect, with the sole exception of the Mosaic law, which it resembles in many respects and especially in its fundamental principles. It is really complete in itself. Every part ties in with every other, each being dependent upon the whole, and the whole upon each part. Lycurgus could have chosen no better means to accomplish the aim he had in view, namely to found a state, isolated from all others, self-sufficient and capable of maintaining itself by its own cycle of activity and vital force. No lawgiver has ever imparted to a state the unity, the interest in the national welfare and public spirit that Lycurgus developed in the Spartans. And how did he achieve this? By concentrating the activities of his countrymen on the state and closing off every avenue that might have diverted their attention elsewhere.

By his legislation Lycurgus had removed all that can enthral the human heart or inflame the passions except political interests. The Spartans were given no opportunity to know the appeal of wealth and pleasure, the sciences and the arts. Universal poverty eliminated differ-



ences in circumstance which ordinarily arouse envy. The desire for possessions disappeared with the opportunity to display and use them. The deep ignorance in the arts and sciences that clouded every Spartan mind protected the constitution from the attacks to which it might have been exposed by enlightened intellects. This same ignorance, coupled with the crude national pride peculiar to every Spartan, was a constant barrier to any intermingling with other Greek peoples. From the cradle the citizens were stamped as Spartans and the more they opposed other nations, the more attached they became to their own orbit. His country was the first sight that greeted the Spartan boy when his mental faculties began to develop. He awoke in the bosom of the state. He was surrounded by nothing but the nation, national concerns, his native land. These were the first impressions his brain received and all his life long the same impressions were constantly renewed.

In his home the Spartan found nothing to attract him. The lawgiver had removed all temptations from his sight. It was only in the bosom of the state that he found occupation, delight, honor, reward. All of his impulses and passions were directed toward this center. The state owned the energy and powers of all its citizens. The common spirit that inflamed all hearts must kindle the national spirit of every individual citizen. It is no wonder, therefore, that Spartan patriotism attained a degree of intensity that must seem incredible to us. For this reason, if the citizens of his state were called upon to choose between self-preservation and the defense of their country there was no doubt as to where the choice would lie. All this will enable us to understand how it was possible for the Spartan King Leonidas and his three hundred heroes to earn the following epitaph, the most beautiful of its kind and the most sublime monument to political virtue: "Say of us, Wanderer, when you arrive in Sparta, that we have fallen here in obedience to its laws."



It must be admitted, therefore, that nothing could be more carefully conceived or more adequate to the purpose than this constitution, that it is a perfect masterpiece of its kind and, if rigidly enforced, would necessarily maintain itself indefinitely. But I would be making a grave mistake if I were to conclude my description here. This admirable constitution deserves our severest condemnation and nothing more disastrous could befall the human race than to have all states patterned after it. We shall not find it difficult to persuade ourselves of the truth of this assertion.

Considered in the light of what he wished to accomplish, the legislation of Lycurgus is a masterpiece of political science and human psychology. He wanted to establish a powerful, self-sustaining, indestructible state. Political strength and durability were his aim, and this aim he accomplished insofar as circumstances permitted. The admiration aroused by a superficial glance at his achievement must give way to strong condemnation when his aims are compared with those of humanity. Everything may be sacrificed to the best interests of the state except the end which the state itself is designed to serve. The state is not an end in itself. It is important only as a means to the realization of an end which is no other than the development of all the faculties of man and cultural progress. If a constitution hinders this development, if it hinders intellectual progress, it is harmful and worthless, no matter how ingeniously it is conceived and how perfectly it may function in its own way. Its durability is to be regretted rather than admired. It is only a prolongation of evil. The longer such a state exists the more detrimental it becomes.

In judging the value of political institutions, we may follow the general rule that they are to be commended only insofar as they favor or, at any rate, do not inter-



fere with, the development of the useful powers of humanity and the progress of culture. This applies to religious as well as to political laws. Both are to be condemned if they fetter the human mind and impose a standstill on man in any respect. A law, for instance, which compelled a nation to adhere forever to a dogma that at one time seemed excellent would be a violation of the rights of humanity which is never justifiable on any grounds, however plausible. It would be directly opposed to the highest good, to the highest objective of society.

Armed with this general criterion, we cannot hesitate to pronounce judgment on the republic of Lycurgus.

One virtue was practiced in Sparta to the exclusion of all the rest: this was patriotism.

To this artificial sentiment the most natural and beautiful affections of the human heart were sacrificed.

Political service was achieved and the ability to perform it was developed by sacrificing all moral sensibilities. Sparta knew nothing of conjugal love, maternal affection, filial piety, friendship. It recognized only citizens and civic virtues. The Spartan mother has long been admired who indignantly repulsed the son returning from battle and rushed to the temple to thank the gods for the son who had met his death. Humanity is not to be congratulated for such unnatural strength of mind. In the moral world a tender mother is a much more beautiful phenomenon than a heroic monster who denies her natural feelings in order to perform an artificial duty.

How much more beautiful is the spectacle of the rough warrior, Caius Marius, in his camp before Rome who sacrifices vengeance and victory because he cannot bear the sight of his mother's tears.

Since the state became the father of the child, the natural father did not perform this role. The child never learned



to love its father or mother because, having been taken from them in earliest infancy, it knew its parents only by hearsay, not by the benefits it had received from them.

Ordinary human feelings were eradicated in Sparta in a still more revolting manner, and respect for the human race which is the essence of duty, was irretrievably lost. A state law required the inhuman treatment of slaves. In these hapless victims mankind itself was insulted and mistreated. In the Spartan code the dangerous principle was laid down that men were to be considered as a means, not as an end, thus demolishing by law the foundations of natural rights and morality. All morality was sacrificed to achieve an end which can be valuable only as a means to the establishment of this morality.

Could anything be more contradictory, and could the contradiction be followed by more frightful consequences? Not only did Lycurgus found his state upon the legalized ruin of morality, he also thwarted the highest purpose of humanity by arresting the minds of the Spartans at the level where he found them and by preventing all possibility of progress forever.

All industry was banished from Sparta, all sciences were neglected, all commerce with other countries was prohibited and everything foreign was excluded. Thus all channels through which enlightened ideas could flow into the nation were closed. The Spartan state was to revolve only about its own center in perpetual monotony and gloomy egotism.

It was the common aim of the citizens to preserve what they possessed, to remain as they were and not to strive for anything new and elevate themselves to a higher level of culture. Inexorable laws had to guard the government machinery from being tampered with by any innovation, even by changes of legal form that normally come about



with the passage of time. In order to ensure the permanence of this local and temporary legislation, the minds of the people had to be kept at the level where the lawgiver found them.

We have seen, however, that intellectual progress should be the aim of the state.

The republic of Lycurgus could endure only if the mental development of the people was arrested, and thus it could maintain its existence only if it failed to fulfill the highest and only true purpose of political government. Therefore, what has been said in praise of Lycurgus, namely that Sparta would prosper only as long as it followed his laws to the letter, is the worst that could be said of them. What made Sparta an unhappy state was the very fact that it could not relinquish the old form of government without exposing itself to complete ruin; that it had to remain what it was; that it had to stand where a single man had placed it. Its lawgiver could not have made it a more disastrous gift than this much vaunted perpetual constitution which was such an obstacle to its true greatness and happiness.

If we look at the total picture, the false splendor which emanates from the only prominent feature of the Spartan republic and which dazzles the inexperienced eye, vanishes at once. We see nothing more than the imperfect attempt of a novice, the first political exercise of a young age that still lacked the experience and clear vision to recognize the relations of things. But for all the imperfection of this first attempt, it cannot fail to excite the interest of a philosophical student of human history. It was always a gigantic step for the human mind to treat as a work of art what had hitherto been left to chance and passion. The first attempt in the most difficult of all arts must necessarily have been imperfect, but since it is also the most important of arts, the attempt is nonetheless of value. Sculptors began with the columns of Hermes before they attempted to chisel the perfect form



of an Antinous, of an Apollo of Belvedere. Lawgivers will have to continue their rude experiments for a long time before the happy balance of social forces automatically presents itself.

Stone bears patiently the blows of the chisel and the strings that the musician causes to vibrate respond to his touch without resistance.

The lawgiver alone works on a self-active, refractory material: human freedom. He can realize only imperfectly the ideal sketched in his brain in ever so pure a form. But the mere attempt is praiseworthy if it is undertaken with disinterested benevolence and carried out with practical wisdom.

## SOLON

Solon's legislation in Athens was almost the direct opposite of that of Lycurgus in Sparta. Inasmuch as these two republics, Sparta and Athens, played the chief roles in Greek history, it is interesting to compare their constitutions and to weigh their respective defects and virtues.

After the death of Codrus, the office of king was abolished and the highest power was conferred *for life* on a magistrate called an *archon*. For a period of three hundred years thirteen of these archons ruled in Athens. History has recorded nothing remarkable about the young republic during this time. But the democratic spirit, which was peculiar to the Athenians even in Homer's time, again became active at the close of the period. The archon with his lifelong tenure was an all too vivid reminder of royalty, and some of the later archons may have abused their great power. The term of office was therefore limited to *ten years*. This was an important step toward liberty; for by electing a new ruler every ten



years, the people exercised their sovereignty afresh. They resumed their power every ten years in order to give it away again as they saw fit. In this way the Athenian people were constantly reminded of what in the end the subjects of hereditary monarchs entirely forget, namely that they, the people, are the source of supreme power, that the prince is merely the creature of the nation.

For three hundred years the Athenians had tolerated archons with lifelong tenure of office, but they became weary of the ten-year archons after seventy. This was quite natural, for they had elected their archons seven times and thus had been reminded of their sovereignty seven times. The spirit of freedom was called upon to be far more active, to develop far more rapidly in the second period than in the first.

The seventh of the ten-year archons was the last of his kind. The people wanted to enjoy the exercise of their authority every year. They had discovered that ten years of power was still long enough to lead to abuses. Henceforth the archon's term of office was limited to one year, at the end of which time a new election took place. The Athenians even went a step further. Since so much power in the hands of one man, even for so short a period, was very like a monarchy, they weakened this power by dividing it between nine archons who ruled together.

Three of these nine archons had privileges the other six did not possess. The first, called *archon eponymos*, presided over the assembly. His signature appeared on official documents. The year was named after him. The second, called *archon basileus* or king, was to supervise religion and religious worship. This had been carried over from former times when the supervision of worship had been an essential function of the crown. The third, *archon polemarchos*, commanded the army in time of war. The six remaining archons were called *thesmothetae* because it was their duty to protect the constitution and to interpret the laws.



The archons were chosen from the noblest families, and it was not until later that members of the lower classes became eligible for the office. This constitution, therefore, was an aristocratic rather than a democratic form of government. The people had not gained very much by the change.

In addition to its good side—namely, that it prevented the abuse of power—the arrangement whereby nine archons were elected every year had the great disadvantage that it gave rise to factions. There were now many citizens who had possessed and in turn relinquished the highest power. When they retired from office they did not find it so easy, once having had a taste of it, to relinquish the enjoyment of power and authority. Wishing to become again what they had been, they collected a following and stirred up storms within the republic. The more rapid turnover and the greater number of archons gave every rich and distinguished Athenian the hope of achieving that dignity, a hope which previously, when only one man had the office and retained it for a fairly long time, he had scarcely known if at all. Finally hope would transform itself into impatience and this impatience gave rise to dangerous plots. Both groups, therefore, those who had already been archons and those who desired to become archons, became equally dangerous to civil peace.

The worst of it was that the governing power, being divided among several men and being retained for so short a time, was very much weakened. A strong hand was needed to control the factions and to keep rebellious spirits in rein. Bold and powerful citizens plunged the republic into confusion and strove for independence.

At last, in order to put an end to the unrest, a blameless and universally feared citizen was commissioned to reform the laws which heretofore had been based on unsound traditions. The name of this citizen was Draco, a



man with no human feeling, who thought human nature incapable of any good, who viewed all actions in the gloomy mirror of his own dark soul; a man wholly devoid of compassion for the weakness of humanity; a poor philosopher, with little understanding of men, a cold heart, a limited mentality and rigid prejudices. Such a man would have been excellent at *enforcing* laws, but a worse person to make them could scarcely have been chosen.

Very little of Draco's legislation has come down to us, but this little gives us a picture of the man and the character of his laws. All crimes were punished indiscriminately by death: idleness and murder, the theft of a cabbage or a sheep, high treason and arson. When asked why he punished trifling transgressions as severely as the gravest crimes, he replied: "The slightest violations of the law are worthy of death. I know of no more severe punishment for the greater offenses than death, therefore I must mete out the same punishment for both."

Draco's laws are the attempt of a beginner in the art of governing men. *Terror* is his only means of attaining his end. He merely punishes transgressions, he does not prevent them. He makes no effort to stop up the sources of evil and to improve men. To take the life of a man because he has done something wrong is like chopping down a tree because it has produced one bad fruit.

His laws are to be condemned on two scores: not only because they violate the sacred feelings and rights of mankind, but also because they were not adapted to the people for whom they were intended. If ever there was a people in the world unlikely to prosper under such laws, it was the Athenian. The slaves of the pharaohs or of the king of kings might eventually have accommodated themselves to such laws, but how could Athenians be expected to bend their necks beneath such a yoke?

Nor did they remain in force more than half a century,



although he gave them the arrogant title of *inalterable* laws.

Draco had, therefore, performed his task very badly. Instead of benefiting the republic, his laws were detrimental to it. Because the laws could not be obeyed and there were no other laws to take their place, it was actually as though there were no laws at all in Athens, and the saddest anarchy prevailed.

At that time the situation of the Athenian people was indeed deplorable. One class of citizens owned everything, the other nothing. The poor were oppressed and exploited most unmercifully by the rich. The classes were separated by an impassable gulf. Want compelled the poor to appeal for help to the rich, to the very people who, like leeches, had sucked them dry. But the help they received was of a very cruel sort. For the money they borrowed they had to pay an enormous rate of interest and if they did not pay by the time stipulated, their property was forfeited to their creditors. Having exhausted their means and still being obliged to go on living, they were forced to sell their children as slaves. Finally, when even this resource failed them, they borrowed on their own bodies and had to permit their creditors to sell them as slaves. There was as yet no law in Attica prohibiting this abominable traffic in human flesh and no way of curbing the cruel rapacity of the rich. So frightful was the situation in Athens that, if the state was not to be ruined, the equilibrium which had been destroyed by the unequal distribution of property had to be restored by violent means.

To this end, three parties had arisen among the people, all of which proposed to remedy the situation. One party, made up of the poor citizens, demanded a democratic government, an equal distribution of the land such as Lycurgus had introduced in Sparta. Another, representing the rich, pressed for the establishment of an aristocracy.

The third party wanted to combine both forms of government and, by opposing the other two, prevented either from prevailing.



There was no hope of settling this dispute in a peaceful manner unless a man could be found to whose judgment all three parties would be willing to bow and whom they would all accept as their arbiter.

Fortunately there was such a man, a man whose services to the republic, whose gentleness and reasonableness and whose reputation for wisdom had attracted the attention of the nation for a long time. This man was Solon, like Lycurgus of royal descent, for he numbered Codrus among his ancestors. Solon's father had been a very rich man, but had reduced his means by his good works, and young Solon was forced to go into commerce during the first years of his citizenship. Since he had had to travel extensively for business reasons, his mind had been enriched by contact with foreign peoples and his genius cultivated through association with foreign sages. He devoted himself to poetry at an early age and the skill he developed in this art was afterward of great use to him in clothing moral truths and political rules in this attractive garb. His heart was susceptible to joy and love. The foibles of his youth made him all the more lenient toward humanity and gave his laws the mild and gentle character that made them so beautiful in comparison with the statutes of Draco and Lycurgus. What is more, he had been a brave general and had rendered many important military services to the republic, including the conquest of the island of Salamine. At that time the study of philosophy was not yet separated as it is now from that of political and military activity. The philosopher was the best statesman, the most experienced general, the bravest soldier. His wisdom was applied to every department of civil life. Solon's reputation had spread throughout all of Greece and he had a very great influence in Peloponnesian affairs.

Solon was equally suitable to all parties in Athens. The rich had high hopes of him because he himself was a man of property. The poor trusted him because he was an honest man. The more intelligent Athenians wanted



him as their ruler because monarchy seemed to them the surest way of suppressing the factions. His relatives shared this desire, but for selfish motives. They hoped to have a part in the government. Solon rejected this advice. "Monarchy," he said, "is a beautiful dwelling, but it has no exit."

He was content to allow himself to be appointed archon and lawgiver. He undertook this great work unwillingly and only out of respect for the welfare of his fellow citizens.

His first act was to issue the celebrated edict called *seisachtheia* or settlement. According to this all debts were canceled and no one in future was permitted to lend anything to another on his body. Strictly speaking, this edict represented a violent attack on property, but the critical state of the nation made violent measures necessary. It was the lesser of two evils, for the class that suffered from this edict was far smaller than the class that benefited by it.

By this beneficent edict he at once relieved the poor of the heavy burden that had oppressed them for centuries. Nor were the rich reduced to poverty, for they retained what they already possessed. He merely took from them the means of being unjust. Nevertheless, he earned no more gratitude from the poor than from the rich. The poor had hoped for an equal distribution of land, of which an example was given in Sparta, and grumbled because he had disappointed their expectations. They forgot that the lawgiver is under obligation to mete out justice to both the rich and the poor, and that it was not desirable to imitate Lycurgus' measure because it was based on an injustice which should have been avoided.

The ingratitude of the people wrung a modest complaint from the lawgiver. "Formerly," he said, "everyone sang my praises. Now everyone leers at me with hostile eyes." Soon, however, the beneficial results of his decree became evident in Attica. The land that formerly



had toiled in slave labor was now free. The citizen now cultivated as his own property the field in which he had been obliged to work as a day laborer for his creditor. Many citizens who had been sold to foreigners and had already begun to forget their own language returned to their native land as free men.

Confidence in the lawgiver was restored. The entire reformation of the state was entrusted to him and he was given unlimited power over the property and rights of the citizens. The first use he made of his power was to abolish all the laws of Draco except those directed against murder and adultery.

After this he undertook the great task of giving the republic a new constitution.

All Athenian citizens had to submit to an estimate of their income and on the basis of this they were divided into four classes or guilds.

The first class was made up of those who had a yearly income of five hundred measures of dry and liquid property.

The second was made up of those who had three hundred measures and were able to keep a horse.

The third comprised those who owned only half of this amount and who therefore had to join up with another man in order to produce it. For this reason they were called a two-horse team.

The fourth class included those who possessed no land and earned their living by manual labor: artisans, day laborers and artists.

The first three classes could hold public office. Those belonging to the fourth class were not eligible. But in the national assembly they voted like the rest and this secured them a large share in the government. All important matters were brought before the national assembly, called the *ecclesia*, and were decided by it: the selection of authorities, the distribution of offices, important litigations, financial transactions, war and peace. Furthermore, the text of the Solonian law being somewhat obscure, every time the judge was in doubt as to the



meaning, appeal had to be made as a last resort to the ecclesia which then decided how it was to be interpreted. Appeal could be made to the people from any tribunal. No one could be a member of the national assembly before the age of thirty, but once he had arrived at the legal age he could not stay away from a session without becoming liable to punishment. There was nothing that Solon opposed and detested more than indifference to the affairs of state.

Thus the Athenian constitution was transformed into a complete democracy. The people were sovereign in the strictest sense of the term. They ruled not merely through representatives, but directly in their own names.

Soon, however, this system led to unpleasant consequences. The people had come to power too rapidly to exercise their privilege with moderation. There were outbreaks of passion in the public assembly and the tumult that arose in so large a crowd did not always permit of calm deliberation and wise decisions.

To remedy this evil, Solon created a senate made up of one hundred members from each of the four guilds. This senate was to deliberate on each point before laying it before the ecclesia. Nothing that had not been considered by the senate could be brought before the people, but the final decision was reserved for the people alone.

After the matter had been laid before the people, orators delivered speeches for the purpose of influencing the vote. These orators acquired considerable importance in Athens. By misusing their ability to sway the highly susceptible minds of the Athenians, they harmed the republic as much as they could have benefited it if they had always kept their eyes on the true interests of the state. The orator resorted to all the tricks of eloquence to make the point he wished to carry attractive to the people. If he was skillful, the hearts of the people were in his hands. The orators bound the people by gentle and legitimate



chains. They ruled by persuasion and their rule was no less powerful because it left the people a margin of free choice. The people were quite free to adopt or to reject a proposal, but this freedom was controlled by the cunning way in which issues were presented. This would have been an excellent system if the orators had always been animated by pure and honest motives. But soon the art of oratory became perverted by sophists who prided themselves on their ability to make evil look like good and good like evil.

In the center of Athens there was a large public square called the Prytaneum which was surrounded by statues of gods and heroes. The senate held its sessions on this square for which reason the senators were called *prytanes*. A *prytanis* was expected to lead a blameless life. No spendthrift, no one who had treated his father with disrespect, no one who had ever been intoxicated could think of being elected to this office.

Later on, when the population of Athens had increased and there were ten guilds instead of the four introduced by Solon, the number of *prytanes* was also increased from four hundred to one thousand. But of the thousand only five hundred were on active duty each year and not all of the five hundred at one time. Fifty of them governed for five weeks and in such a way that only ten of them were in office each week. Thus it became quite impossible to rule in an arbitrary manner, for each had as many witnesses to his acts as he had colleagues and his successor could always reexamine them. Four popular assemblies were held every five weeks, not counting extraordinary convocations. By this system, delay was rendered impossible and business was transacted with despatch.

Besides creating the senate, Solon also restored the *areopagus* whose authority had been curtailed by Draco because he considered it too humane. He made it the supreme guardian of the law and, as Plutarch says, fastened



the republic to these two tribunals, the senate and the areopagus, as to two anchors.

These two tribunals had been instituted for the purpose of watching over the preservation of the state and its laws. Ten other tribunals had charge of the application of the laws; they constituted the ordinary judiciary. Murder cases were tried before four courts, the *palladium*, *delphinium*, *phreattys* and *heliaea*. The first two were merely confirmed by Solon; they had been instituted by the kings. Unintentional homicide was tried by the *palladium*. Those who confessed to killing, but for a justifiable cause, presented themselves before the *delphinium*. The *phreattys* was established for the trial of those who had been accused of deliberate murder after they had already fled the country on the charge of unintentional homicide. The accused appeared on board a ship and his judges stood on the shore. If he was innocent, he quietly returned to his place of exile in the joyous hope of being allowed to return at some future time. If he was found guilty, he also returned unmolested but was permanently exiled from his country.

The fourth criminal court, the *heliaea*, derived its name from the sun because it met immediately after sunrise at a place shone upon by the sun. This court was an extraordinary commission of the other three tribunals. Its members were both magistrates and judges. Its function was not merely to apply and execute laws, but also to improve and interpret them. These men met in solemn conclave and were bound by a terrible oath to speak the truth.

As soon as sentence of death had been pronounced, if the accused had not evaded it by going into voluntary exile, he was delivered over to the Eleven. This was the name assigned to a commission to which each of the ten guilds furnished one man, thus making eleven with the executioner. These eleven men supervised the prisons and executed the death sentence. The Athenians had three



ways of putting criminals to death. The guilty man was either hurled down a precipice or into the ocean, decapitated or given hemlock to drink.

Exile ranked second to the death penalty. This is a terrible punishment in happy countries, but there are states from which it is no misfortune to be exiled. The fact that the Athenian people ranked exile second to the death penalty and, if it was permanent, considered it equal to the latter, is a fine testimonial to their national pride. An Athenian who had lost his country could not find another Athens anywhere in the world.

Exile, with the exception of ostracism, was accompanied by the confiscation of property.

Citizens who, because of extraordinary services or good fortune, had acquired more influence and authority than was compatible with republican equality and so were becoming dangerous to republican liberty were sometimes exiled—even before they had actually deserved to be. An individual citizen had to suffer injustice in order to save the state. The idea underlying this is laudable in itself, but the means chosen to carry it out is evidence of political childishness. This sort of exile was called ostracism because votes were written on pieces of pottery. Six thousand votes were required to inflict this punishment. By its nature ostracism was usually inflicted on the most deserving citizens. Therefore it was more of an honor than a disgrace, but it was nonetheless cruel and unjust, for it deprived the most worthy of what was most precious to him, his native land.

A fourth kind of punishment for crime was the punishment of columns. The crime of which a man was guilty was inscribed on a column and this disgraced him together with his entire family.

Less significant disputes were brought before six tribunals that never gained importance because the condemned parties always had the right to appeal to the higher courts and the ecclesia. Every citizen pleaded his own cause ex-



cept women, children and slaves. The duration of the speeches made by defendant and plaintiff was regulated by a water clock. The most important civil suits had to be decided in twenty-four hours.

So much for the civil and political institutions of Solon, but the lawgiver did not stop here. Ancient lawgivers enjoyed the privilege of shaping man in accordance with their laws, concerning themselves with morality, the formation of character and social intercourse, and did not differentiate, as we do, between the man and the citizen. With us laws are not infrequently in direct opposition to customs. In antiquity a much more beautiful harmony prevailed between laws and customs. This is why the body politic was animated by a warm and lively zeal that is lacking in our institutions. The state was indelibly engraved on the souls of the citizens.

Here too, however, we must be cautious in our praise of antiquity. It may be said that the intentions of the ancient lawgivers, almost without exception, were wise and praiseworthy, but they did not always employ the best means of executing them. There is frequently evidence in them of wrong conceptions and one-sidedness. They went too far where we do not go far enough. If our lawmakers are wrong in entirely neglecting moral duties and customs, the Greeks too were wrong in enforcing moral duties by law. Freedom of will is the first condition of moral beauty and this freedom is destroyed if moral virtue is enforced by legal penalties. It is the noblest privilege of human nature to determine its own conduct and to do good for its own sake. No law should exact loyalty to a friend, generosity toward an enemy, gratitude to father and mother. If this is done, a free moral sentiment is transformed into the product of fear, a slavish emotion.

But to return to Solon.



One of his laws decrees that every citizen must regard an insult received by another as directed against himself and must not rest until the offender is punished. The law is excellent when viewed in the light of its underlying purpose. Its purpose was to inspire everyone with a warm interest in his neighbor and to accustom him to look upon himself as part of a consistent whole. What a pleasant surprise it would be for us to arrive in a country where every passer-by, without a word from us, would protect us from insults. But how much less pleasure we would derive from this if we were told that this protection was compulsory.

Another law instituted by Solon states that it is dishonorable for anyone to remain neutral during a rebellion. The underlying purpose of this law was also undoubtedly a good one. The lawmaker was anxious to inspire in his fellow citizens a lively interest in the affairs of state. For a citizen to be indifferent to his country he regarded as a most detestable attitude. Neutrality is often the result of indifference. But he forgot that the most intense patriotic devotion frequently demands just such neutrality; in a case, for instance, where both parties are in the wrong and the country would suffer if either were to prevail.

Another of Solon's laws forbids a man to speak ill of the dead. Still another forbids him to indulge in malicious talk about the living in public places such as the courts, the temple, the theater. He absolves bastards of all filial duties toward the father who, he said, has already been repaid by the sensual pleasure he has enjoyed. He likewise absolved the son from the obligation to support his father if the latter has neglected to have his son taught a trade. He permitted a man to make a will and to dispose of his property as he wished, for friends of one's own choosing, he said, are worth more than mere relatives. He abolished dowries because he wished to make love rather than interest the basis of marriage. Further evidence of his gentle character is the fact that he called odious things



by milder names. Taxes were called contributions, garrisons were guardians of the city, prisons, apartments, and the cancellation of debts was called relief. He tempered by wise regulations the extravagant behavior to which Athenians were prone. Rigid laws governed the morals of women, the association of the two sexes and the sanctity of marriage.

These laws, he decreed, were to be valid only for one hundred years. How much more farsighted he was than Lycurgus! He understood that laws are merely the servants of culture, that nations in their maturity require a different kind of guidance from that required by nations in their infancy. Lycurgus perpetuated the mental infancy of the Spartans in order to perpetuate his laws. But both his state and his laws have vanished. Solon, on the other hand, made his laws binding for only one hundred years, and many of them are to be found in the Roman code to this very day. Time is a righteous judge of all merits.

Solon has been reproached for giving too much power to the people and this reproach is not unwarranted. In attempting to avoid one cliff, *oligarchy*, he came too near another, *anarchy*; but he only approached it, for the senate and the areopagus kept strong reins on popular power. The evils, which are inseparable from democratic government, tumultuous and passionate debates could not, it is true, be avoided in Athens. But these evils are to be attributed to the form he chose rather than to the essential nature of democracy. He erred in allowing the people to make decisions in person rather than through representatives. Because of the vast number of people involved, discussions could not very well take place without confusion and tumult and, owing to the large proportion of poor citizens, bribery was unavoidable. The sentence of ostracism, which required at least six thousand votes, shows us how stormy such popular assemblies



may have been. On the other hand, if we consider how well even the common man was acquainted with the business of the republic, how strongly he was imbued with the national spirit, how much care the lawgiver had taken to make love of country the foremost sentiment in the hearts of the citizens, we shall have a better understanding of the political intelligence of the Athenian mob and at least shall not make the mistake of placing them on the same level as the common people of our age.

All large assemblies lead to a certain amount of lawlessness, but smaller assemblies have difficulty in keeping altogether free of aristocratic despotism. To hit the right mean between these two extremes is the most difficult problem and will only be solved by future generations. I shall always admire the spirit that animated Solon, the spirit of healthy and genuine statesmanship that never loses sight of the fundamental principle on which all governments must be based: the principle that the people themselves must make the laws they are to obey and that the duties of a citizen must be discharged out of rational conviction and patriotism, not out of slavish fear of punishment or a blind and passive submission to the will of a master.

Solon gave a fine account of himself in showing a respect for human nature, and never sacrificing the human being for the state, nor the end for the means, but saw to it that the state served man. His laws were loose reins within which the minds of the citizens could move freely and easily in all directions without feeling that they were being guided. The laws of Lycurgus were iron fetters against which the bold spirit chafed until it sank bleeding beneath the heavy weight. The Athenian lawgiver opened up every possible avenue to the genius and industry of his fellow citizens. The Spartan lawgiver blocked up every avenue but one, political service. Lycurgus imposed idleness by law, Solon punished it severely. Hence all virtues came to maturity in Athens, all trades and arts flourished, all of the sinews of industry were flexed, all fields of knowledge were cultivated.



Where in Sparta could one find a Socrates, a Thucydides, a Sophocles, a Plato? Sparta could produce only rulers and warriors, no artists, no poets, no thinkers, no citizens of the world. Solon and Lycurgus were both great men, both were honest men. But how 'different was their influence because they started from opposite principles. The Athenian lawgiver is surrounded by liberty and joy, industry and abundance; all the arts and virtues, all the graces and muses look up to him with gratitude and call him their father and creator. Lycurgus is surrounded only by tyranny and its horrid opposite, bondage that rattles its chains and curses the author of its misery.

The character of an entire people is the most faithful expression of its laws and the most reliable criterion of its worth or worthlessness. The Spartan mind was limited, the Spartan heart unfeeling. The Spartan was proud and over-bearing with his allies, cruel toward the vanquished, inhuman to his slaves, servile with his superiors. He was unscrupulous and perfidious in his negotiations and his virtues lacked the pleasing charm that alone wins hearts. The Athenian, on the other hand, was gentle and meek in his dealings with his fellow man, polite and lively in conversation, affable with his inferiors, hospitable and obliging with strangers. He was fond of comfort and fashionable clothes, but this did not prevent him from fighting like a lion in battle. Clad in purple and scented with perfumes, he caused the millions of Xerxes and even the rough Spartans to tremble. He loved the pleasures of the table and found it difficult to resist the delights of sensuality, but gluttony and shameless conduct were looked upon as disgraceful in Athens. Delicacy and propriety were more highly cultivated by the Athenians than by any other nation of antiquity. In a war against Philip of Macedonia, the Athenians captured some letters belonging to the King, among which was one to his wife. All



were opened except this which was returned to him intact. The Athenian was generous in prosperity, steadfast in adversity—at which time he gladly risked everything for his country. He treated his slaves humanely; an ill-treated servant was permitted to bring suit against his master. Even animals were generously treated by this people. After the completion of the temple Hekatonpedon, it was decreed that all the animals that had assisted in the work should be relieved of any further labor and should be allowed for the rest of their lives to pasture in the richest meadows. Afterwards one of these animals returned to work of its own accord, running mechanically in front of the others that were pulling loads. This spectacle so touched the people that the order was given that the animal should in future be given special care at the public expense.

In the interests of justice, however, I must not conceal the faults of the Athenians, for history must not be a flatterer. This people, whom we have admired for its fine manners, its gentleness, its wisdom, was not infrequently guilty of the most shameful ingratitude toward its greatest men and of cruelty toward its vanquished enemies. Spoiled by their freedom and vain of their brilliant achievements, they were often intolerably proud in their dealings with their allies and neighbors. In public debates, they allowed themselves to be governed by a spirit of frivolity and levity which frequently frustrated the efforts of their wisest statesmen and brought the republic to the brink of ruin. The individual Athenian was gentle and malleable; but he was a changed man at public meetings. This is why Aristophanes portrays his countrymen as sensible old men at home and as fools at the assembly. They were governed by an excessive love of glory and thirst for novelty. For the sake of glory, the Athenian risked his life, his property and not infrequently his virtue. A crown of olive branches, an inscription on a column proclaiming his merits spurred him more keenly



to great deeds than all the treasures of the Great King ever spurred on the Persian. Athenians were as extravagant in their gratitude as in their ingratitude. To be borne home in triumph from the assembly by such a people, to attract their attention if only for a day, afforded the vainglorious Athenian a higher and truer delight than a monarch could bestow on his greatest favorites; for it is one thing to please one man and quite another to touch a proud and sensitive people. The Athenian had to be in a constant state of excitement; he was continually striving after new impressions, new pleasures. This quest for novelty had to be rewarded with fresh satisfactions every day if it was not to become a source of trouble to the state. For this reason a spectacle presented at the strategic moment often preserved the public peace when it was threatened with an insurrection. For the same reason a usurper frequently won the game only because he knew how to cater to this passion for novelty by presenting a series of amusements. But woe to even the most meritorious citizen if he had not learned the art of being new each day and of rejuvenating his own merit.

The evening of Solon's life was less cheerful than he deserved. To escape the importunities of the Athenians who plagued him daily with questions and proposals, he left Athens as soon as his laws were in operation and journeyed to Asia Minor, to the islands and to Egypt where he conversed with the wisest men of his age. He also visited the court of King Croesus of Lydia and that of Sais in Egypt. What is recorded concerning his interview with Thales of Miletus and with Croesus is too well known to be repeated here.

Upon his return to Athens he found the republic torn by three factions led by two dangerous men, Megacles and Pisistratus. Megacles was powerful and formidable because of his wealth, Pisistratus, by reason of his political shrewdness and genius. This Pisistratus, Solon's erstwhile favorite, the Julius Caesar of Athens, appeared one day before the ecclesia stretched out on his chariot, pale



and covered with blood from a wound that he himself had scratched on his arm. "This," he said, "is how my enemies have mistreated me for your sakes. My life is in constant danger unless you take steps to protect it."

Thereupon his friends, in accordance with his instructions made a motion that a bodyguard should be formed to accompany him whenever he went out in public. Solon guessed the treacherous motive behind this proposal and vigorously opposed it, but in vain. The proposal was adopted, Pisistratus was given a bodyguard and no sooner was he at its head than he took possession of the citadel of Athens. Now the people's eyes were opened, but too late. Terror seized Athens. Megacles and his friends escaped from the city, abandoning it to the usurper.

Solon, who alone had not been deceived by the usurper's wiles, was now the only man who did not lose heart. He now expended as much energy upon raising their sinking spirits as he had previously expended upon preventing them from committing the rash act for which they were paying the price. When no one would listen to him, he went home, laid down his arms in front of his door and cried: "Now I have done all I can for the welfare of my country." He never thought of taking flight, but continued his outspoken and strong censure of the Athenians and the unscrupulousness of the tyrant. When asked by his friends what gave him the courage to defy the powerful tyrant, he replied: "My age gives me the courage." He did not live to see his country's freedom.

But Athens had not fallen into the hands of a barbarian. Pisistratus was a noble-hearted man with a profound respect for Solon's laws. Having been twice expelled by his rival and having twice recaptured the government of the city, he made the people forget his usurpation by his real services to the republic and his brilliant virtues. No one noticed the loss of liberty in Athens, so mild and peaceful was the flow of his reign; it was not he, but Solon's law that was ruling. Pisistratus ushered in the golden age of Athens. The beautiful dawn of Greek art



began to appear in his time. He died, mourned like a father.

The work he had begun was continued by his sons, Hippias and Hipparchus. The two brothers governed harmoniously, both animated by the same love of knowledge. Under them, Simonides and Anacreon were already flourishing, and the Academy was founded. Everything moved rapidly toward the glorious age of Pericles.